

1/11  
Mr Murphy

I don't think that the  
A. T. T. Agents were legally  
justified in stopping and  
searching the vehicle and his  
automobile, speeding, heavy  
loading, wrong tags etc are  
rather common occurrences.  
Hence I don't see how, when  
these things are observed, that  
the inference can be drawn,  
without more, that liquor or  
any particular commodity is  
being transported. This seems  
especially true where there is  
nothing to show that the operator  
of the vehicle is known as a  
hauler or dealer in liquor or  
other contraband.

I don't like Jones' letter.  
In view of other complaints that

We have had to take up  
with the A+TT unit. I  
think we should now  
clearly indicate that future  
unauthorized searches will  
cause us to consider  
taking prosecutive action.

GMM

## Memorandum

TO : Mr. John L. Murphy, Chief  
General Litigation Section

DATE: January 4, 1962

FROM : Gerald W. Jones *mg*  
Constitutional Rights Unit

GWJ:rb 7295

144-55-108

Edward L. Rast, et al;  
Charles Edward Spencer - Victim  
Civil Rights; Impersonation

Charles Edward Spencer, victim, complained that on January 6, 1961, a truck occupied by three men forced his automobile off U.S. Highway 74 between Wadesboro and Polkton, North Carolina. Two of the men assaulted him, searched him and his automobile for whiskey and took money from his wallet. According to Spencer, he was not shown any identification and thought he was being robbed by impersonators when the assailants stated that they were federal officers.

Agents Rast and Nifong, who intercepted victim, state that they took no money from Spencer and did not strike him. They state that they stopped victim's car and searched it because it had truck license plates on it and because it was traveling at a high rate of speed. (According to victim, the automobile was a commercial vehicle and required truck license. Victim was a vending company salesman.)

The third man in the truck was Nifong's father and took no part in the incident.

It is well established that the Fourth Amendment does not prohibit the search, without a warrant, of an automobile, for liquor illegally transported or possessed, if the search is upon probable cause. See, e.g., Husty v. United States, 282 U.S. 694 (1931); Carroll v. United States, 267 U.S. 132 (1925). The primary question in this case, therefore, is whether or not there was probable cause for the apprehension and search of Spencer's car by Agents Rast and Nifong.

144-55-108	
24	DEPARTMENT OF JUSTICE MAY 11 1962 RECORDS BRANCH
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According to Husty v. United States, supra, the test is not that the officer should have had before him legal evidence of the suspected illegal act. It is enough if the apparent facts which have come to his attention are sufficient, in the circumstances, to lead a reasonably discreet and prudent man to believe that liquor is illegally possessed in the automobile to be searched. See also, Brinegar v. United States, 338 U.S. 160 (1949); Dumbra v. United States, 268 U.S. 435 (1925); Stacey v. Emery, 97 U.S. 842 (1878). As Mr. Justice Rutledge stated in speaking for the Court in Brinegar v. United States, supra, at 175, "it (probable cause) has come to mean more than bare suspicion: Probable cause exists where 'the facts and circumstances within their (the officers') knowledge and of which they had reasonably trustworthy information (are) sufficient in themselves to warrant a man of reasonable caution in the belief that' an offense has been or is being committed. (citation)."

In the Carroll case, probable cause was found to exist where it was shown that the prohibition officers, while patrolling a highway much used in illegal transportation of liquor from a place where liquor was frequently being illegally brought into the country, stopped and searched an automobile on the basis of previously obtained information that the occupants of the car were "bootleggers" engaged in the unlawful trade of selling liquor. In addition, the occupants of the car had, two months earlier, attempted to furnish whiskey to these officers and on that occasion and at the time the apprehension and search were made, the same automobile was being used by the defendants. In speaking of the circumstances in the Carroll case, the Court said in the Brinegar case, at 177:

The question presented in the Carroll case lay on the border between suspicion and probable cause. But the Court carefully considered that problem and resolved it by concluding that the facts within the officers' knowledge when they intercepted the Carroll defendants amounted to more than mere suspicion and constituted probable cause for their action.

Finding the situation in the Brinegar case not to be factually distinguishable from the situation in the Carroll case, the Court went on to hold that probable cause existed in the Brinegar case.

In the Brinegar case the defendant's automobile was searched and certain liquor therein was seized. The search and seizure took place in Oklahoma and were made without a warrant. However, evidence showed that one of the federal officers involved had arrested defendant five months previously for illegally transporting liquor; that he had twice seen defendant loading liquor into a car or truck in Missouri where the sale of liquor was legal; and that he knew petitioner had a reputation for hauling liquor. On the occasion in question this officer noticed defendant's car, apparently heavily loaded, travelling in Oklahoma, where transportation of liquor was illegal, but not too far from the Missouri state line. The officer, and a companion, gave chase, stopped defendant and interrogated him. During the interrogation defendant admitted having twelve cases of liquor in the car, whereupon the car was searched, the liquor seized and defendant was arrested.

Even though the circumstances in both the Carroll and Brinegar cases were much more incriminating than the circumstances involved in the instant case, it would appear that the Court in those cases was not convinced that any clear case of probable cause existed and chose rather to describe the situation there involved as borderline cases. In the instant case only three factors of relative insignificance were known to the agents - (1) excessive speed; (2) commercial license on an automobile; and (3) cartons in the rear of the car. There is no claim that these agents had any prior information concerning either the victim or the automobile which he was driving. It seems clear that the agents in this case acted on mere suspicion and that there existed no probable cause <sup>for believing that</sup> ~~was~~ a violation of federal law ~~was taking place~~.

Even though victim alleges that he was assaulted and robbed of certain money by the AT&T agents, it is questionable whether these things did occur. At least, victim suffered no injury and the agents deny that they struck or robbed victim. In addition, victim was not detained any longer than was necessary to search the car. In view of these circumstances prosecution of these officers would not

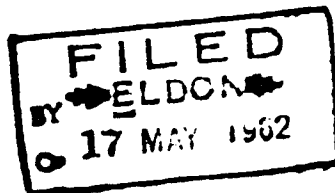
seen warranted although a communication of our views, if you concur, to the Treasury Department, would appear to be in order. I am, therefore, attaching a suggested letter to Mr. Sagalyn, to whom Mr. Marshall wrote on April 24, 1961, concerning another matter involving some of the Department's investigators. (See D.J. File #144-51-403).

CIVIL RIGHTS DIVISIONNotice to Close FileFile No. 144-55-108 Date April 19, 1962Re: General Litigation SectionRe: Edward L. Rast, et al.;  
Charles Edward Spencer - Victim  
Civil Rights

It is recommended that the above case be closed for the following reasons:

For a brief summation of the factual situation, see my memorandum of January 4, 1962, to Mr. John L. Murphy.

A mediative conference has been held with Treasury Department officials and, as a result thereof, that Department is taking certain specific steps in its training program to remedy the shortcomings of its investigators in the area of illegal searches. Further action is not necessary.



144-55-108	
DEPT. OF JUSTICE	RECORDS
24 MAY 11 1962	
FEDERAL BRANCH	

*Gerald W. Jones*  
Gerald W. Jones  
Attorney

To: RECORDS ADMINISTRATION OFFICE

The above numbered file has been closed as of this date

5/8/62  
Date

*W. Hubbard*  
W. Hubbard  
Deputy Chief, Gen.Lit. Section

3/14/61

Mr. Murphy:

As you will notice, this case is extremely delinquent. You will also note that the case was originally assigned to Mr. Dunbaugh. It was reassigned to me on February 10, 1961. Because I wanted to do <sup>some</sup> ~~some~~ research on the aspect of the subject's justification in shooting victim, I held the case several weeks. These combined factors account for the delay.

*G. W. Jones*  
G. W. JONES

144-42-282

*File*



T. 3/20/61

JD:GMJ:ash  
144-42-289 6818

MAR 21 1961

Mrs. Verlan Graham  
General Delivery  
Bernie, Missouri

Dear Mrs. Graham:

We acknowledge your letter of February 6, 1961, concerning your husband Verlan Graham.

We cannot, at this time, advise you as to what is being done specifically in your husband's case. However, we can inform you that our investigation is still in progress.

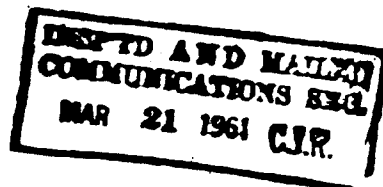
Sincerely,

JOHN DOAR  
Acting Assistant Attorney General  
Civil Rights Division

By:

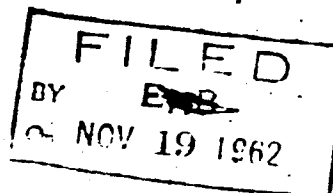
GERALD W. JONES  
Attorney

cc: Records ✓  
Chrono  
Jones  
Hybbard



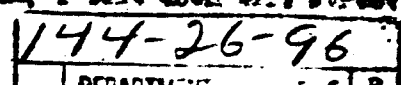
STATEMENT OF JAMES LEE ANDERSON

The following statement, taken in the Prosecutor's office at Crown Point, Lake County, Indiana, on Monday, December 11, 1961, at 11:43 A.M., was made by JAMES LEE ANDERSON, M-934, 2300 Massachusetts Street, Gary, Indiana, in the presence of Detectives A. Hall and R. Scott, of the Gary Police Department. Typed by Gills Ede.



144-26-96

*File*



- Q. What is your name, age and address?  
A. James Lee Anderson, 34 years old, 2300 Massachusetts St., Gary, Ind.
- Q. James, can you read and write English?  
A. No, I can't read and can't write.
- Q. How far did you go in school?  
A. I didn't go too far.
- Q. Can you write your name?  
A. Yes, I can.
- Q. How long have you lived in Gary?  
A. About 4 years, off and on.
- Q. How long have you been here, this last time you came back?  
A. About a year.
- Q. James, are you on parole or probation at this time?  
A. Probation.
- Q. Probation from where?  
A. From Hammond.
- Q. From Hammond, Indiana?  
A. Yes.
- Q. Is that City Court or Criminal Court?  
A. Federal Court.
- Q. What was the charge over there?  
A. I got a check out of a mail box.
- Q. Were you employed any place before you were arrested for this case?  
A. Yes, I was working for Mr. Edwards, you know with Mr. Means, but Mr. Edwards was my boss on the houses.
- Q. James, do you know why you were arrested this last time?  
A. Yes.
- Q. You know what you have been charged with?  
A. Yes.
- Q. What have you been charged with?  
A. Rape and robbery.
- Q. Are you guilty of those charges?  
A. I am guilty of one of them.
- Q. Which one?  
A. The robbery.
- Q. We would like for you to tell us in your own words, starting from before the robbery, just what happened?  
A. Well, I come from work that evening; I left home about nine o'clock, I went. I went out the other way, over in the Circle, over to a girl's house. I should not say that because I got a wife. Anyway, so I was going over to her house that night, and so on the Circle there on 22nd & Louisiana, I went down this street

*Robert Scott*

*PK-11*

and I saw this car sitting aside the street down to the curb, on the end, and I went on around and parked my car and I went back to the car that was parked there; and when I walked up to the car, I saw two in the car on the back seat. He was messing around with this girl.

Q. You mean he was having intercourse with her?

A. Yes, and I pecked on the window and he climbed from the back seat to the front seat. And he didn't have on no clothes. So he gets out—I told him to get out. And he gets out with his pants in his hand. And I told him to give me what money he had; and he give me his money and about that time when he give me the money there was a car coming and I ran and I went on and got in my car and went on back to Seneca's parking lot and so I sat in the car a while; it was raining. And I got out and my windshield wiper wasn't working/ so good and I was waiting on them. And then I went down to Red's Station at 24th & Broadway. The reason I went by there as I didn't see him and I left and went back up to Seneca and I got me a couple of beers. I rode around a while and so I went back over that way.

Q. Back over that way, you mean back to the section where you robbed this boy on the West side?

A. Yes. The reason I went back over there this boy who does the work on my car he lives over there in that project where the school is. So I started over there and I changed my mind; I didn't go. I turned around and said I am going home. I turned around in the street. And when I turned around in the street, the boys run up, behind me and flicked the light and I stopped. So they asked me what was I doing and I was scared and I told them the reason I was that way I had been working on a flat, so they took my keys and unlocked my trunk and the time I had in there was done and they said, you haven't had a flat because your spare isn't wet." And as he went and searched the car and found a flash light and a toy cap pistol.

Q. Is this toy cap pistol that they found in the car what you used to knock on the window of this car the boy was in?

A. Yes, that's the pistol and he found the pistol. He came back to the car, I was in the back seat and they pulled and got a wrench and began to pull down. And when they got me down, one of them made me pull my clothes off and I thought I didn't know what had happened and so he said "pull your clothes back up everything is all right."

Q. And you got wet walking through these weeds where you held the boy up?

A. When I ran from the car I ran through the weeds. They bent the street you go around the circle—you go straight and the car was on the other side of the street if you go straight on this side (indicating direction with hand). I went through the weeds that's where I got wet, but I told them I had a flat.

Q. When you held the boy up, did the girl stay in the car or did you make her get out?

A. She stayed in the car. Only thing I saw of her she was fumbling around in the back seat of the car and he got out. He told that I made them get out the car and—well out in the weeds and made him lay down and pull off his clothes. He had already had his clothes off. She said I took her back from him and had her and made him lay down and then I ran. Then she said she went to the hospital and in his statement he told that I had her and she came back up there and laid down beside of him and then I got away. That's what he told. Both of them were in the car; that's the reason I did not call them anything down at the station. My probation officer came out here and said he had checked it and she didn't go to the hospital.

Q. When they examined your clothes at the station, did they examine the crotch of your pants down here to see if you had been with a woman with your clothes on?

A. No, they just had me pull my pants down.

- Q. Had you had anything to do with your girlfriend before you went out?  
A. No.
- Q. When you were running back through these woods on the way back to your car, did you fall down or anything?  
A. Yes, it was raining. I dropped the flash light and I stopped and picked it up. I was wet on my shoulders; it was raining when I left both times and I ran on back and got in my car. So that night they put me in jail and then he come out there and said "well, I don't know, it is raining," and so they held me back and I talked with them. And then the next morning she was down there and she told that I raped her etc.
- Q. That's all in their statement?  
A. Yes.
- Q. You say you drove around in here, you saw this car and then you parked your car and came across; when you did this, you did this with intention of robbing them?  
A. No, I wasn't intending to; I didn't know nobody was in the car. I was just going to look in the car, a car sitting on the side of the road like that. When I came to the car and looked, they were in the back seat.
- Q. You said you didn't know nobody was in the car, were you intending to take something off his car?  
A. Yes, I was but I did not take anything.
- Q. Now, you state that you made this boy give you his money?  
A. Yes.
- Q. How much money did you get?  
A. \$1.40
- Q. Did you make him pull his clothes off?  
A. No, I didn't make him. That's what they said, but here's my hand to God, I mean if I got the electric chair for it, he had already had his clothes off. He climbed over the seat, got out, had some long underwear on and his trousers in his hand.
- Q. Did you search his trousers yourself?  
A. No, I didn't search him. He just ran his hand in his pocket and said "this is all I got."
- Q. Is there anything else you want to add?  
A. No, that's all I did. I know I didn't rape her, I know that.

The above statement has been read to me and I have made this statement voluntarily without any threats or promises and I realize that it can be used as evidence in court.

WITNESSES:

JAMES LEE ALEXANDER

Andrew Ball  
ANDREW BALL

Robert Scott  
ROBERT SCOTT

DOCKETED

FEB 14 1961

no 12

Bernie, Mo.  
Gen. ltr.  
Feb. 6, 1961

Dear Mr. Tylor,

I am writing to you about the matter of Verlan Graham. Since I have written to you, two men from the I.B.I. office has come out and talked with us. We haven't heard anything about what they did so we thought we would write to you and see if we could get some information.

Since this has happened I have been in the hospital bed fast, and I really would appreciate it very much if you would let me know what is being done.

RECEIVED

Sincerely yours,

FEB 15 1961

GEN. LIT. SECTION

Bernie, Mo.  
Gen. ltr.

2/22/61

144-42-282

27	DEPARTMENT OF JUSTICE	RECORDS
	FEB 14 1961	
	RECORDS BRANCH	

CIV. RIGHTS DIV.  
Gen. Lit. Sec.

AFTER FIVE DAYS RETURN TO

~~████████████████████~~  
Blane, Mrs.

Gen. Del.



Harold R. Tyler, Jr.  
U. S. Department of Justice  
J. B. I.  
Washington 25, D. C.  
Civil Rights Division



Feb. 26, 1961

Bernie, me.

Dear Mr. Dylar,

I am writing you again, and I have not heard from you. you may not have received my letter.

Since I wrote to you I have found out a lot more. The girl and boy that was sitting beside of Verlan when Fowler came up to arrest him didn't get to see the F.B.I. men when they were here.

They said, that Verlan didn't have anything on his hand, and had get up to go with Fowler, when

he hit him with his gun.

All Verlan did was ask  
Jowler to read him the  
warrant. Jowler said, that  
he didn't have it. It was  
over at the City Hall. He  
then got up to go with him  
and he hit him with his  
pistol and held the gun in  
his hand all the way out.

Mr. Cooper also, said Jowler  
shot him. He said he was  
a good way from him when  
he shot him.

These people will all get  
up and swear to this. The  
names are

Maiden



There is also, a Red Braggs, that,  
was a witness. He was the leader  
of the ones that tried to get  
Lawler that night. They locked  
him up and kept him all night  
and then turned him out to  
testify the next day. We are  
pretty sure that they threatened  
to turn him in on his parole  
if he said he saw anything.  
Because I know he had to, or  
know someone who did.

They are also going to lay  
Lawler off at the end of the month.  
So they must have decided  
he wasn't fit to be a law.  
which he isn't. please let me  
know something. Sincerely yours  
[redacted]

T. 3-8-62

Director, Federal Bureau of  
Investigation

Doris Marshall  
Assistant Attorney General  
Civil Rights Division

RM:MS:rb 9243

144-32-548

G. E.

Joseph William McKinney, Jr.,  
et al;  
Edward Lee Little - Victim  
Civil Rights

MAR 12 1962

Reference is made to your memorandum dated  
February 8, 1962, with the report of Special Agent  
~~REDACTED~~ dated February 5, 1962, at New Orleans,  
attached.

Please determine if the local grand jury has  
made any disposition of this matter. If in the negative,  
ascertain when disposition is contemplated.

cc: Records  
Chrono  
Stephens  
Murphy  
USA, New Orleans, La. (air mail)

SENT BY MESSENGER  
COMMUNICATIONS SEC.

MAR 12 1962

1  
**ELEGRAM  
SPECIAL**

DOCKETED

MAY 28 1962

1962 MAY 25 PM 3:49

DEPARTMENT OF JUSTICE  
ADMIN. RECORDS BRANCH  
TELEGRAPH OFFICE

DBUA054 DEA151

DE IDC294 PD INDIANAPOLIS IND 25 1249P EST

JOHN L MURPHY

US JUSTICE DEPT WASHDC

WOULD APPRECIATE AT YOUR EARLIEST CONVENIENCE THE NAME TITLE  
AND SECTION UNDER WHICH GARY INDIANA POLICEMEN DET. SARGENT  
CLINTON E SAVAGE AND DET. WILLIAM Kennedy  
KENNEDY WERE INDICTED BY FEDERAL GRAND JURY AT SOUTH BEND  
INDIANA TELEGRAPH REPLY COLLECT

GEORGE P STEWART / MANAGING EDITOR INDIANAPOLIS RECORDER 518  
INDIANA AVENUE.

333P EDT MAY 25 62

RECEIVED

MAY 28 1962

GEN. LIT. SECTION

*file*  
*DM*

144-26-96	
DEPARTMENT OF JUSTICE	RECORDS
15 MAY 25 1962	FILED
RECORDS BRANCH	
CIV. RIGHTS DIV.	